Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
National Exchange Carrier Association, Inc.	)	
Petition to Amend Section 69.104 of the	)	RM No. 10603
Commission's Rules	)	
	)	

COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the Commission's Public Notice[1] seeking comment on the Petition for Rulemaking filed by the National Exchange Carrier Association (NECA). OPASTCO is a national trade association representing over 500 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over 2.5 million customers.
All of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37).

OPASTCO supports NECA's Petition for Rulemaking, which requests that the Commission revise its rules to permit the assessment of no more than five End User

[1] *Wireline Competition Bureau Seeks Comment on NECA's Petition for Rulemaking to Adjust the Application of End User Common Line Charges on Certain T-1 Exchange Access Services,* RM No. 10603, Public Notice, DA 02-3060 (rel. Nov. 8, 2002).

Common Line (EUCL) charges, (also commonly referred to as Subscriber Line Charges or SLCs), on customer-ordered exchange access service provisioned using digital, high-capacity T-1 interfaces. The NECA Petition correctly explains that such treatment within the Commission's rules would more accurately reflect the existing common line costs that its pool members incur in the provision of such circuits. Furthermore, this rule change would ensure that T-1 exchange access service would be regulated in the same manner as functionally equivalent derived channel services, such as Primary Rate Interface (PRI) Integrated Services Digital Network (ISDN) services.

II. COMMENTS

As part of its access charge reform proceedings for both Price Cap and Rate-of-Return (RoR) carriers, the Commission amended its Part 69 rules to allow local exchange carriers (LECs) to assess no more than five SLCs for PRI ISDN services, rather than requiring the assessment of a SLC for each of the up to 24 voice-grade channels that can be provided over a single ISDN line.[2] The Commission indicated that such a change was necessary, because the imposition of:

> …a SLC for ISDN service equal to a SLC for single-channel analog service multiplied by the number of derived channels

[2] *See, Access Charge Reform,* CC Docket No. 96-262, *Price Cap Performance Review for Local Exchange Carriers,* CC Docket No. 94-1, *Transport Rate Structure and Pricing,* CC Docket No. 91-213, *End User Common Line Charges,* CC Docket No. 95-72, First Report and Order, 12 FCC Rcd 15982, 16032, para. 116 (1997) (First Report and Order). *See also, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers,* CC Docket No. 00-256, *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation,* CC Docket No. 98-77, *Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers,* CC Docket No. 98-166, Second Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-116, 16 FCC Rcd 19613, 19640-19641 (2001).

> exceeds the [non-traffic sensitive] NTS costs of ISDN service and therefore *artificially discourages efficient use* of ISDN.[3]

Within its Petition, NECA correctly points out that Digital Transport Service (DTS) utilizing T-1 exchange access service functions in a nearly identical manner to PRI ISDN service.[4] Both services utilize customer supplied customer premises equipment to derive the functional equivalent of 24 business lines over one digitally formatted access line.[5] More significantly, NECA has determined that the underlying loop provisioning for each of these services is identical, meaning that the ratio of NTS loop costs to total loop costs are also the <u>same</u> for both T-1 and PRI ISDN based services.[6]

If both of these services generate the same NTS loop costs, than it follows that LECs should be able to recover these costs for both services in an identical manner as well. However, as NECA has noted, the Commission's interpretation of its rules treat T-1 exchange access service and PRI ISDN service differently, by requiring the imposition of one SLC for each of the up to 24 T-1 derived channels provided to a customer by a LEC.[7] Consequently, customers who choose T-1 exchange access service are forced to pay approximately three times as much in SLCs as compared to functionally similar PRI ISDN service.[8]

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[3] First Report and Order, para. 115. (emphasis added)

[4] NECA Petition, p. 6.

[5] *Ibid.*

[6] *Id.,* p. 8.

[7] *See, NYNEX Telephone Companies, Revisions to Tariff F.C.C. No. 1,* Transmittal No. 116, Memorandum Opinion and Order, 7 FCC Rcd 7938, 7939, para. 5 (1992).

[8] NECA Petition, p. 6.

This disparate treatment of functionally equivalent services is likely to "artificially discourage the efficient use"[9] of T-1 exchange access service in a manner similar to the Commission's earlier concern related to ISDN service. By forcing customers who choose T-1 based service to shoulder a SLC burden well in excess of the actual NTS loop costs certainly creates a disincentive to choose T-1 exchange access service, as has been noted by NECA.[10] Therefore, the Commission's rules should be amended so as to ensure that these functionally similar technologies receive comparable regulatory treatment. Moreover, such a revision is essential, so that customers who choose T-1 exchange access services are not forced to pay SLCs in excess of the actual loop costs incurred by the LEC through its provisioning of the requested digital T-1 interface.

[9] First Report and Order, para. 115.

[10] *Id.,* pp. 5-6.

III. CONCLUSION

For the reasons stated above, the Commission must amend Part 69 of its rules to permit the assessment of no more than five SLCs on customer-ordered exchange access service provisioned using digital T-1 interfaces for which the customer provides the channel terminating equipment.

Respectfully submitted,

THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

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CERTIFICATE OF SERVICE

I, Jeffrey W. Smith, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent by first class United States mail, postage prepaid, on this, the 2nd day of December, 2002, to those listed on the attached list.

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